

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**STEPHANY SWART, M.D.,
Plaintiff,**

v.

Civil Action No. 1:14-cv-10

**SURENDRA PAWAR, M.D.; MONONGALIA
RADIOLOGY ASSOCIATES, P.C.; MARK KRAULAND;
JAMES BOLT; and KLINE, KEPPEL & KORYAK P.C.;
Defendants.**

**SURENDRA PAWAR, M.D., and MONONGALIA
RADIOLOGY ASSOCIATES, P.C.;
Counter-Claimants,**

v.

**STEPHANY SWART, M.D.,
Counter-Defendant.**

**SURENDRA PAWAR, M.D., and MONONGALIA
RADIOLOGY ASSOCIATES, P.C.,
Third-Party Plaintiffs,**

v.

**WADE B. STOUGHTON, M.D.;
ERIC D. JOHNSON, M.D.; and
CYNTHIA JOHNSON,
Third-Party Defendants.**

ORDER/OPINION

This matter is before the Court pursuant to Plaintiff Stephany Swart, M.D.'s "Motion to Compel Responses to Discovery as to Defendants Pawar and MRA," filed on October 1, 2014.

(Docket No. 55.) Defendants did not file a response. This matter was referred to the undersigned by United States District Judge Irene M. Keeley on October 2, 2014. (Docket No. 56.)

I. Relevant Procedural History

On December 23, 2013, Plaintiff filed a complaint in the Circuit Court of Monongalia County, West Virginia, alleging claims of fraud, breach of fiduciary duty, conversion, legal malpractice, and accounting malpractice against Defendants. (Docket No. 1.) Defendants removed the matter to this Court on January 15, 2014. (Id.) Defendants filed their Answers on January 17, 21, and 30, 2014. (Docket Nos. 4, 6, 10.) The Answer filed by Defendants Pawar and Monongalia Radiology Associates (“MRA”) contained a counterclaim against Plaintiff for breach of fiduciary duty, breach of contract, contractual interference, interference with a prospective contract, and fraud and misrepresentation. (Docket No. 10.) On February 13, 2014, Defendants Pawar and MRA filed a Third-Party Complaint against the Third-Party Defendants. (Docket No. 11.)

Plaintiff filed a motion to remand on February 14, 2014 (Docket No. 12), and a motion to dismiss the counterclaim for lack of jurisdiction on February 19, 2014 (Docket No. 14). Judge Keeley held a scheduling conference on April 21, 2014. At that scheduling conference, she denied both of Plaintiff’s motions. (Docket No. 30.) In a Scheduling Order entered on April 23, 2014, Judge Keeley directed that discovery in this matter be completed by May 1, 2015. (Docket No. 33.)

II. Analysis and Order

Plaintiff served her First Sets of Discovery Requests on Defendants Pawar and MRA on August 4, 2014. (Docket Nos. 45 and 46.) Under Fed. R. Civ. P. 33(b)(2), Defendants responses were due “within 30 days,” or by September 3, 2014. According to Plaintiff’s motion, no responses were received by that date. On October 15, 2014, counsel for Defendants Pawar and MRA filed

certificates of service stating that the responses sought by Plaintiff had been served upon her counsel on October 10, 2014, via first-class mail. (Docket Nos. 58 and 58.)

The only relief that Plaintiff seeks in her motion is an “Order compelling Defendants Pawar and MRA to produce full and complete responses to Plaintiff’s first set of discovery requests.” (Docket No. 55 at 2.) Albeit late, Defendants Pawar and MRA have now produced those responses. There is no relief that the Court can provide. Accordingly, Plaintiff’s “Motion to Compel Responses to Discovery as to Defendants Pawar and MRA” (Docket No. 55) is **DENIED AS MOOT**.

It is so **ORDERED**.

The Clerk of the Court is directed to provide a copy of this Order/Opinion to counsel of record and to remove Docket No. 55 from the list of motions actively pending before this Court.

DATED: October 21, 2014

John S. Kaull

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE